

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 62**

Citations Affected: IC 32-29-7-3.

Synopsis: Posting notice of foreclosure sale. Conference committee report for ESB 62. Eliminates the requirement that a sheriff post notice of a foreclosure sale in at least three public places in each township where the real estate is located. **(This conference committee report: (1) removes provisions requiring settlement service providers to make closing documents available to borrowers at least 48 hours before a closing; and (2) removes provisions requiring notice of a foreclosure sale to be published in two daily or weekly newspapers of general circulation published in the county in which the real estate is located.)**

Effective: July 1, 2008.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 62 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 32-29-7-3, AS AMENDED BY P.L.240-2005,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2008]: Sec. 3. (a) In a proceeding for the foreclosure of a
- 5 mortgage executed on real estate, process may not issue for the
- 6 execution of a judgment or decree of sale for a period of three (3)
- 7 months after the filing of a complaint in the proceeding. However:
- 8 (1) the period is:
- 9 (A) twelve (12) months in a proceeding for the foreclosure of
- 10 a mortgage executed before January 1, 1958; and
- 11 (B) six (6) months in a proceeding for the foreclosure of a
- 12 mortgage executed after December 31, 1957, but before July
- 13 1, 1975; and
- 14 (2) if the court finds that the mortgaged real estate is residential
- 15 real estate and has been abandoned, a judgment or decree of sale
- 16 may be executed on the date the judgment of foreclosure or
- 17 decree of sale is entered, regardless of the date the mortgage is
- 18 executed.
- 19 (b) A judgment and decree in a proceeding to foreclose a mortgage
- 20 that is entered by a court having jurisdiction may be filed with the clerk
- 21 in any county as provided in IC 33-32-3-2. After the period set forth in
- 22 subsection (a) expires, a person who may enforce the judgment and

1 decree may file a praecipe with the clerk in any county where the
 2 judgment and decree is filed, and the clerk shall promptly issue and
 3 certify to the sheriff of that county a copy of the judgment and decree
 4 under the seal of the court.

5 (c) Upon receiving a certified judgment under subsection (b), the
 6 sheriff shall, subject to section 4 of this chapter, sell the mortgaged
 7 premises or as much of the mortgaged premises as necessary to satisfy
 8 the judgment, interest, and costs at public auction at the office of the
 9 sheriff or at another location that is reasonably likely to attract higher
 10 competitive bids. The sheriff shall schedule the date and time of the
 11 sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m.
 12 on any day of the week except Sunday.

13 (d) Before selling mortgaged property, the sheriff must advertise the
 14 sale by publication once each week for three (3) successive weeks in
 15 a daily or weekly newspaper of general circulation. The sheriff shall
 16 publish the advertisement in at least one (1) newspaper published and
 17 circulated in each county where the real estate is situated. The first
 18 publication shall be made at least thirty (30) days before the date of
 19 sale. At the time of placing the first advertisement by publication, the
 20 sheriff shall also serve a copy of the written or printed notice of sale
 21 upon each owner of the real estate. Service of the written notice shall
 22 be made as provided in the Indiana Rules of Trial Procedure governing
 23 service of process upon a person. The sheriff shall charge a fee of ten
 24 dollars (\$10) to one (1) owner and three dollars (\$3) to each additional
 25 owner for service of written notice under this subsection. The fee is:

- 26 (1) a cost of the proceeding;
- 27 (2) to be collected as other costs of the proceeding are collected;
- 28 and
- 29 (3) to be deposited in the county general fund for appropriation
- 30 for operating expenses of the sheriff's department.

31 (e) The sheriff also shall post written or printed notices of the sale
 32 ~~in at least three (3) public places in each township in which the real~~
 33 ~~estate is situated and~~ at the door of the courthouse of each county in
 34 which the real estate is located.

35 (f) If the sheriff is unable to procure the publication of a notice
 36 within the county, the sheriff may dispense with publication. The
 37 sheriff shall state that the sheriff was not able to procure the
 38 publication and explain the reason why publication was not possible.

39 (g) Notices under subsections (d) and (e) must contain a statement,
 40 for informational purposes only, of the location of each property by
 41 street address, if any, or other common description of the property other
 42 than legal description. A misstatement in the informational statement
 43 under this subsection does not invalidate an otherwise valid sale.

44 (h) The sheriff may charge an administrative fee of not more than
 45 two hundred dollars (\$200) with respect to a proceeding referred to in
 46 subsection (b) for actual costs directly attributable to the administration
 47 of the sale under subsection (c). The fee is:

- 48 (1) payable by the person seeking to enforce the judgment and
- 49 decree; and
- 50 (2) due at the time of filing of the praecipe;

51 under subsection (b).

(Reference is to ESB 62 as reprinted February 19, 2008.)

Conference Committee Report
on
Engrossed Senate Bill 62

Signed by:

Senator Steele
Chairperson

Representative Dembowski

Senator Broden

Representative Foley

Senate Conferees

House Conferees